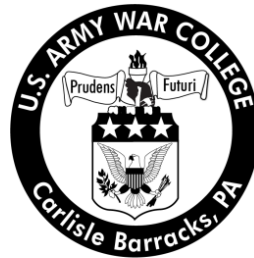


## U.S. Experience with the Draft: Learning the Wrong Lessons

by

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United States Army War College  
Class of 2013

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# USAWC STRATEGY RESEARCH PROJECT

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Throughout its history, the United States has relied on conscription to procure manpower. However, this practice has routinely met with criticism and dissent. Due to public outrage over the unfairness of the draft during the Vietnam War, the draft was discontinued in 1973. Almost immediately, proponents emerged advocating reinstatement of the draft. Some proponents advocated the pragmatic need for additional personnel in the wake of the September 11, 2001 terrorist attacks. However, others proposed a return to the draft as a means to compel patriotism, ensure egalitarian distribution of the burden of defense, and as a way to solve U.S. fiscal difficulties. This Strategy Research Paper examines whether abandoning the all-volunteer force in favor of conscription will result in a fairer system of military service.





## **U.S. Experience with the Draft: Learning the Wrong Lessons**

Our tradition of individual freedom is the slow-ripening fruit of centuries of effort. To surrender it within after fighting to defend it against dangers without would be a supremely ironical turn of our history.

—B. H. Liddell Hart<sup>1</sup>

Reliance on a military draft dates back to America's founding, as does criticism of its use. Historically, conscription has been viewed with a skeptical eye. As noted historian George Q. Flynn observed, the colonial idea of military service was "less a part of citizenship and more as a burden imposed by government."<sup>2</sup>

The Civil War saw the first imposition of a national draft with the passage of the Conscription Act by the Confederacy in 1862.<sup>3</sup> The Union followed suit by passing the Enrollment Act in 1863, but the public's dissent was expressed when riots erupted throughout the North. Approximately 10,000 Union troops were needed to quell the unrest, equal to the number draftees that served in the Union Army that year.<sup>4</sup>

During World War I, 57,000 draft notice recipients claimed conscientious objector status, while 338,000 were classified as deserters.<sup>5</sup> Senator Robert M. LaFollette criticized the use of conscription when he decried it "is the corollary of militarism and militarism spells the death of democracy. . . . There is not the shadow of excuse for pressing men into involuntary military servitude for the conduct of this war."<sup>6</sup> Senator Robert Taft, similarly, criticized the draft during World War II, stating that conscription is totalitarianism.<sup>7</sup> A study by sociologist James Burk found that during the Vietnam conflict less than a majority of people believed the draft was fair.<sup>8</sup>

Despite criticism and political pressure that ended the draft in 1973, proponents for reinstatement quickly emerged. As former Secretary of the Army Louis Caldera stated, the "draft is more about nostalgia for a time when military service was perceived

to be a near universal and often beneficial rite of passage for young men in our country than it is about keeping our military at full strength.”<sup>9</sup>

Recently, politicians, pundits and military officers have advocated the return of the draft for a myriad of reasons. General Stanley McChrystal, the former commander of International Security Assistance Force and U.S. Forces – Afghanistan, asserted that “every town, every city needs to be at risk,” opining that a draft would more fairly distribute responsibility for the conduct of war.<sup>10</sup> Similarly, Congressman Charles Rangel claimed the all-volunteer force is unfair because “[a] disproportionate number of the poor and members of minority groups make up the enlisted ranks of the military. . . .”<sup>11</sup> Author Tom Ricks argued that the United States’ fiscal problems could be solved by drafting 18 year-old men and women to perform low-skilled jobs at low wages.<sup>12</sup> Charles Moskos, a prominent military sociologist, proposed a draft to resolve what he perceived to be a serious manpower shortage after the September 11, 2001 terrorist attack.<sup>13</sup>

Despite the success of the all-volunteer force over the last four decades, the draft continues to be the center of debate. Proponents and critics argue the merits of their case based on issues ranging from the status of women to financial concerns. Each experience provides lessons that policymakers should consider regarding the use of conscription and its equity. As the U.S. moves toward allowing women in combat positions, attention has been directed to the fairness of the draft.

### Conscripting Women

Even though there has always been a need for women to serve in the military during times of war, they have not been subject to conscription. The lack of compulsory service may be caused by the belief that women “have the right but not the obligation to

serve in the military.”<sup>14</sup> This idea harkens back to an era when women were not considered full citizens and only citizens had the burden of defending their country.

After the Soviet invasion of Afghanistan, President Jimmy Carter recommended that Congress amend the Military Selective Service Act of 1948 (MSSA) to require the registration and possible conscription of women.<sup>15</sup> Considerable public debate took place before Congress decided women would not be required to register with the Selective Service.<sup>16</sup> According to Senator Sam Nunn, “[t]he main point that those who favored the registration of females made was that they were in favor of this because of the equality issue. . . .”<sup>17</sup> The Senate Report evaluating the testimony before the Senate Armed Services Committee concluded that “the argument for registration and induction of women is not based on military necessity, but on consideration of equity.”<sup>18</sup> Congress determined that any future draft would be for the purpose of filling needed combat positions. Because women were excluded from combat, there was no need to draft them.<sup>19</sup> Senator Roger Jepsen succinctly stated that “the shortage would be in combat arms. That is why you have drafts.”<sup>20</sup>

Three days before registration was to resume, the U.S. District Court for Eastern Pennsylvania struck down the MSSA for violating the Due Process Clause of the Fifth Amendment.<sup>21</sup> On June 25, 1981, the U.S. Supreme Court reversed this ruling, stating that Congress was authorized under Article I, section 8, of the Constitution to require only men to register. Refusing to distinguish between registering for a potential pool of conscripts and being drafted, the Supreme Court decided that men and women are differently situated, and therefore, may be treated differently.<sup>22</sup> The Supreme Court

stated that it “should not divide the military into two groups - one in permanent combat and one in permanent support.”<sup>23</sup>

Justice Byron White, in his dissenting opinion, illuminated the tortured logic of the court:

Granting that, it is self-evident that if during mobilization for war, all noncombat military positions must be filled by combat-qualified personnel available to be moved into combat positions, there would be no occasion whatsoever to have any women in the Army whether as volunteers or inductees.<sup>24</sup>

Justice Thurgood Marshall, also dissenting, presciently examined a fatal flaw in the Supreme Court’s decision. He posited what would happen if the nation decided to impose a peacetime draft. He concluded “[i]n that event, the hypothetical draft the Court relied on to sustain the MSSA’s gender-based classification would presumably be of little relevance, and the Court could then be forced to declare the male-only registration program unconstitutional.”<sup>25</sup>

Justice Marshall astutely pointed out the house of cards the majority of the Court built in its facile opinion. “[T]he majority simply assumes that registration prepares for a draft in which every draftee must be available for assignment to combat.”<sup>26</sup> However, there [is] nothing . . . to indicate that *a*ll positions that will need to be filled by a draft will be combat positions.

Despite the unwillingness of Congress to draft women, “[a]ll four Service Chiefs agreed that there was no military reason for refusing to register women. . . .”<sup>27</sup> Army Chief of Staff Bernard Rogers stated that “women should be required to register . . . in order for us to have an inventory of what the available strength is within the military qualified pool in this country.”<sup>28</sup> Principal Deputy Assistant Secretary of Defense Richard

Danzig declared that “there are good reasons for registering women. Our conclusion is even more strongly that there are not good reasons for refusing to register them.”<sup>29</sup>

Congress’s decision to not require registration by women rests upon a finding of no military necessity. Army Chief of Staff, General Edward Meyer testified that there are such large numbers of young men available there is no military necessity to draft women, with the exception of some professionals.<sup>30</sup> While the military is undoubtedly capable of going to war without drafting women, this is not the equivalent of no military necessity. The military would be capable of going to war without Asians, Native Americans or virtually any other identifiable minority group. However, that ability does not mean there is no military necessity for access to this population.

Equally indefensible is the contention that women should not be subject to the draft merely because they are excluded from certain occupations, namely combat positions. The argument goes as follows: if women are not eligible for *all* positions they should not be required to fill *any* position.

The Army, the most restrictive service, has approximately 314,000 positions open to the 62,000 women serving on active duty.<sup>31</sup> 252,000 positions currently filled by men could be filled by women, if needed. Assuming there is a draft proportionate to the national population, more than enough positions are open to women. As there is no prohibition against all of these positions being filled by volunteer women, it is difficult to argue they should not be filled by conscripted women in the case of a draft.

Policy shifts have opened up opportunities for women across all services. In 2010, Congress established a blue-ribbon panel to examine the role of women in the military. It recommended that the Department of Defense eliminate all gender restrictive

policies and allow women to serve in combat positions. Army Chief of Staff General Ray Odierno publicly supported increased roles for women in combat.<sup>32</sup> Unexpectedly, Secretary of Defense Leon Panetta announced on January 24, 2013 that the combat exclusion is rescinded effective January 2016.<sup>33</sup>

As Justice Marshall cautioned, what is “so blithely dismiss[ed] as ‘equity’ is nothing less than the Fifth Amendment’s guarantee of equal protection of the laws which ‘requires that Congress treat similarly situated persons similarly.’”<sup>34</sup> With the prospect of almost all, if not all, positions being open to women by 2016, any pretense for excluding women from a potential draft should be extinguished.<sup>35</sup>

#### Minority Representation

When the draft ended in 1973, African Americans made up 12.6 percent of military but the proportion of African Americans in the Army rose to 32.9 percent by 1980.<sup>36</sup> With such a large discrepancy between the military and general population, it appeared that minorities, African Americans in particular, would bear the burden of casualties in a time of war. For several reasons, this concern did not materialize. Most significantly, the disparity in representation began to decline. By the onset of the 1990 Persian Gulf War, the African American population in the military had declined to 20 percent.<sup>37</sup>

Although minority representation is an important demographic statistic, a better measure of the representational burden is casualties suffered. Total combat deaths for African Americans during the Vietnam War were 13.1 percent of all deaths, proportionate to the size of the African American civilian population.<sup>38</sup> Since the implementation of the all-volunteer force, African American combat deaths have been lower than their representation in the military. A 1996 study by Moskos examining all

combat fatalities from 1975 through 1993 showed that African Americans suffered 15 percent of all deaths, slightly higher than their civilian population representation but below their military representation. If the 1983 terrorist bombing of the U.S. Embassy in Lebanon is excluded, the percentage drops to 12.

Army combat deaths reported between 2001 and 2012 yield similar results. African American combat deaths in Iraq and Afghanistan were 10.5 percent of all deaths. This is lower than the 13.6 percent African American representation in the civilian population and significantly less than their representation in the Army. All racial categories suffered casualties at a lower rate than their relevant civilian population except Caucasians, who sustained 82.5 percent of the combat deaths compared to their 72.4 percent civilian population representation.

Table 1. Race/Ethnic Distribution of Deaths OEF/OIF<sup>39</sup>

Race/Ethnicity	Army Deaths	Percent of Total
American Indian/Alaska Native	41	0.9
Asian	107	2.3
Black or African American	497	10.5
Native Hawaiian or other Pacific Islander	14	0.3
White	3,894	82.5
Multiple Races	62	1.3
Unknown	106	2.2
Total	4,721	100

The results are similar when considering the racial composition of those wounded in Iraq and Afghanistan. All racial categories had a lower percentage of

wounded relative to their proportionate representation except Caucasians, who had casualty rates 10.5 percent higher than their population representation.

Table 2. Race/Ethnic Distribution of Wounded in Action OEF/OIF<sup>40</sup>

Race/Ethnicity	Army WIA	Percent of Total
American Indian/Alaska Native	322	0.9
Asian	679	2.0
Black or African American	3,310	9.5
Native Hawaiian or other Pacific Islander	56	0.2
White	28,791	83.1
Multiple Races	359	1.0
Unknown	1,147	3.3
Total	34,664	100

African Americans enlist in the combat specialties at the lowest rate of all racial categories, 12 percent compared to 18 percent for Caucasians and Hispanics.<sup>41</sup> At the same time, they are 57 percent more likely than Caucasians to serve in a non-combat position. Despite often stated criticisms of the all-volunteer force, there is little quantitative evidence that minorities bear a greater burden of the defense when examining casualties.

During the Vietnam War, youth from affluent families often sought to avoid the draft through deferment, membership in the National Guard or Reserve, or by claiming conscientious objector status. Many of those avenues were not available to the poorest in the nation but that did not mean they were more likely to be drafted. The lowest of the social strata were disproportionately disqualified from service due to poor medical



conditions, low mental aptitudes or criminal records.<sup>42</sup> The inability to attract the wealthy or the poor placed the responsibility of service on the middle class.

This problem continues today. While those coming from lower income families are more likely to enlist, it is also true that people who serve in the military come from more “well-off neighborhoods” than those who do not serve.<sup>43</sup> It may be concluded that both the wealthy and the poor are underrepresented in the military while the middle class is significantly overrepresented. The current composition of the armed forces is not representative across the entire spectrum of class and racial composition, but there is no indication that poor minorities are unfairly bearing the burden of national defense.

### The Economics of Compulsory Service

Proponents of the draft suggest that conscription is a feasible means of reducing the Government’s debt. By drafting young men and women into the military, the Government may save money by cutting salaries and benefits for Soldiers. Unfortunately, this argument is short-sighted. While paying conscripted Soldiers substandard wages may decrease Federal expenditures, it merely shifts the burden of Government overspending to young, draft-eligible individuals.

In a seminal study conducted prior to the end of the draft, economist Walter Oi considered the cost of transitioning from a conscripted force to an all-volunteer force. The chief concern was the expected cost of inducing individuals to enlist over employment in the civilian marketplace. According to Oi, manpower deficits could be eliminated by raising the military pay to attract volunteers.<sup>44</sup> Oi noted that the difference in cost for an all-volunteer force and a conscripted force was primarily the result of pay increases for Soldiers in their first four years of service.<sup>45</sup>

In 1958, the basic pay for a new recruit was \$75 per month. By 1971, it had only grown to \$134.40 per month. In 1972, though, the pay for the lowest ranks more than doubled as the military began its transition to an all-volunteer force. With the exception of the early 1980s, military personnel have seen consistent annual pay increases. However, this steady growth is misleading.

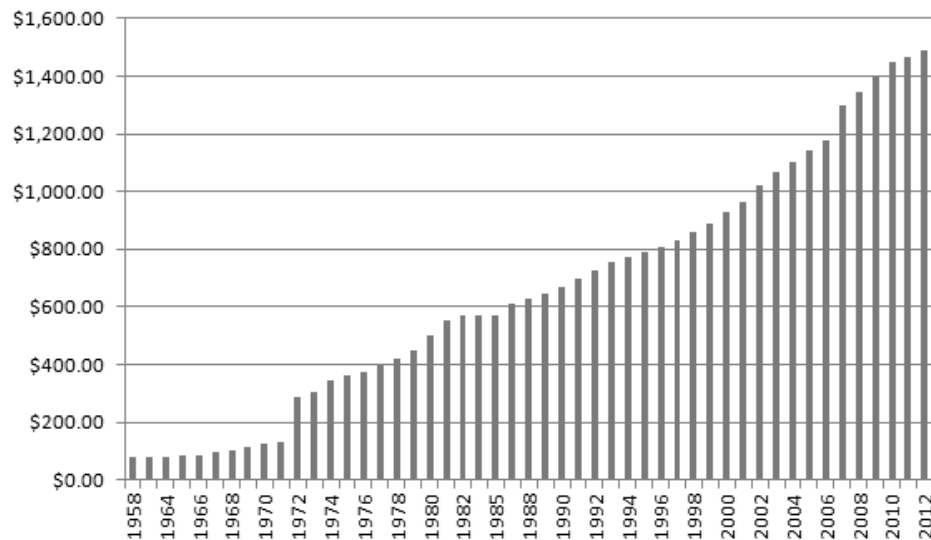


Figure 1: Unadjusted E-1 Pay

Although the pay for the lower enlisted ranks doubled in 1972, the all-volunteer force saw significant erosion in their pay shortly after this upward shift. Starting in 1974, relative military pay began to decrease, reaching a low point in the late 1980s and early 1990s. Military pay remained flat until the late 1990s when efforts were made to narrow the perceived civil-military pay gap. The 2000s saw significant increases in military pay, peaking in 2010 when adjusted for inflation. Nonetheless, the 2010 inflation-adjusted basic pay was less than the mid-1970s pay rate.

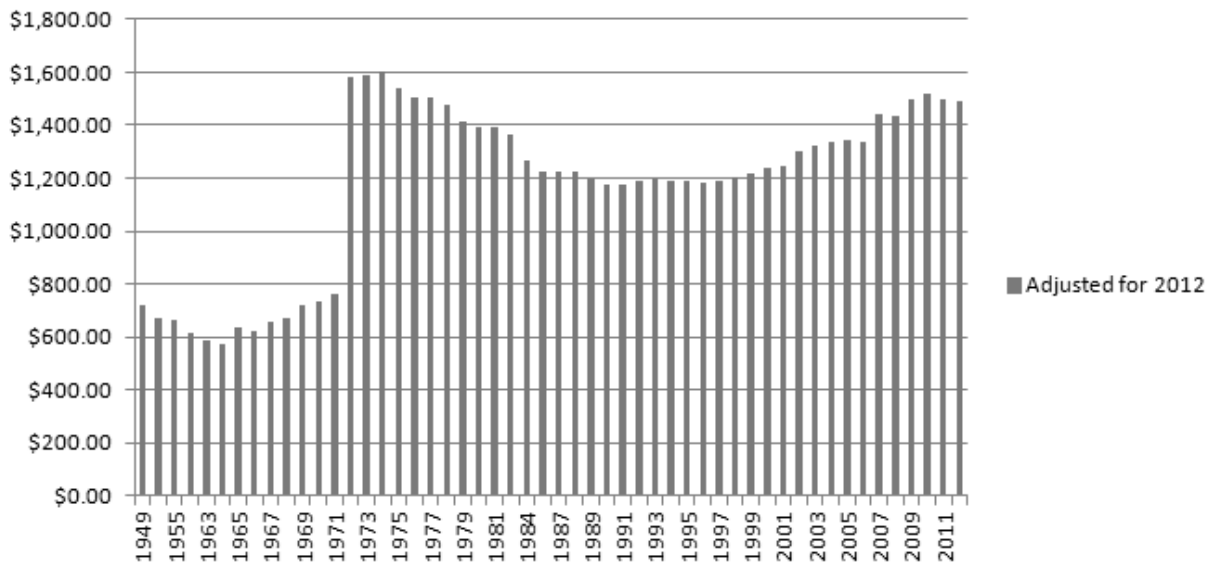


Figure 2: E-1 Pay Adjusted for Inflation

Another key economic figure worth examining is the minimum wage index. In 1949, a person working 40 hours per week at minimum wage would earn \$69.33 compared to \$75.00 for a new conscript. While the minimum wage continued to increase in the 1950s and 1960s, military pay stagnated. By 1968, a person working for minimum wage was earning \$277.31 per month while a new Soldier was making \$102.30. It wasn't until 1972 that minimum wage and a private's wages reached parity; minimum wage at \$277.31 per month and military wages at \$288.00.

Although there is no evidence that military pay for the lower ranks outweighs their value, the draft is presented as a means of reducing military wages to levels that would be unacceptable in the civilian sector. Proponents of the draft argue that a conscripted force, with lower pay, will result in budget savings. This puts an extreme burden or "tax" on those that are draft eligible. The greatest demand for a high income occurs when individuals are young, needing to cover the cost of education and raising a family.<sup>46</sup>

Requiring young men and women to serve in the military at artificially reduced wages delays their prime wage earning years and increases their financial difficulties.

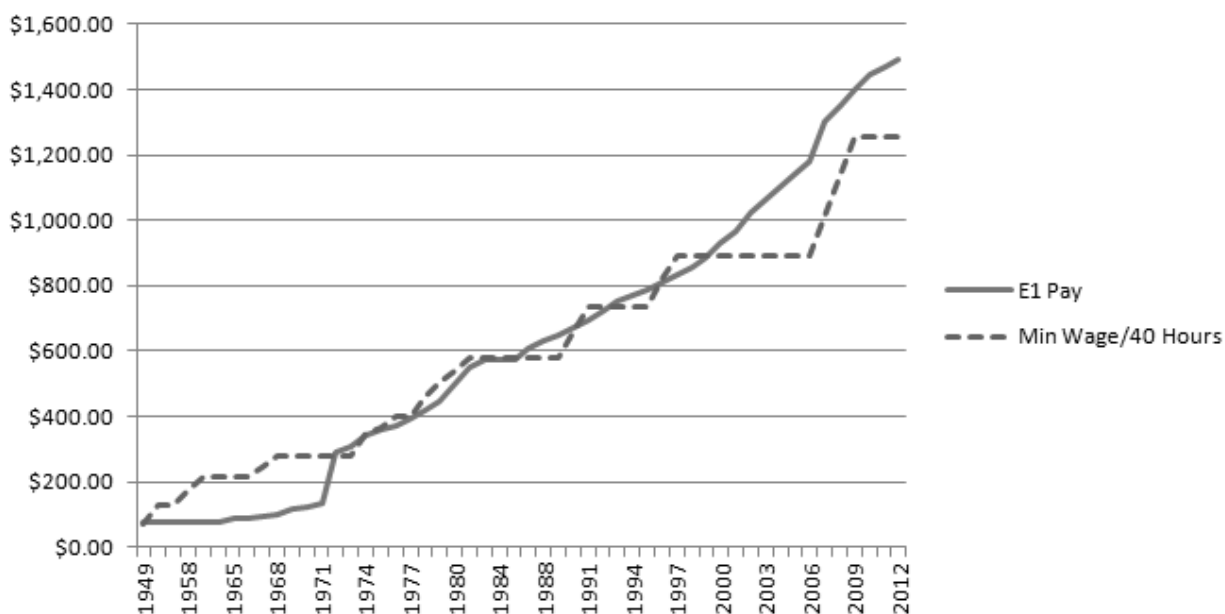


Figure 3: Comparison of E-1 Pay to Full-Time at Minimum Wage

A study of conscription in the United Kingdom determined that it has a long lasting effect. The last cohort of men who served under the British conscription system earned five to eight percent less than their subsequent cohort.<sup>47</sup> This is because 70 percent of a person's overall wage growth occurs during the first 10 years of their working life.<sup>48</sup> The early disruption has a pernicious effect on life-time wages. Ten years after their discharge from service, white veterans who were conscripted during the Vietnam era earned roughly 15 percent less than white non-veterans.<sup>49</sup> The reason veterans earn less is because "military experience is a poor substitute for lost civilian labor market experience."<sup>50</sup> While greater experience generally results in higher pay, it is not measured by the calendar year but by the amount of time in the civilian labor

force.<sup>51</sup> As a result, the period of conscription puts them “behind” in civilian employment.<sup>52</sup>

In addition to the long-term effect on wages caused by delayed entry into the civilian labor market, military service may have a deleterious effect on employability. It is often thought that employers desire the skills and dedication that former servicemembers bring to their civilian jobs. However, a survey of employers revealed that 42 percent were concerned about hiring former servicemembers due to potential mental health issues and 50 percent stated servicemembers may face “negative stereotypes.”<sup>53</sup> Contrary to popular perception, veterans may not have an advantage over younger individuals without military experience.<sup>54</sup> Congress made it clear when excluding women from the Selective Service requirement that the draft is for the purpose of filling combat positions, a skill that does not readily translate to the civilian labor market. The inability to transition from the military to comparable positions in the civilian labor force can have an adverse, life-long impact.

Even those who are not selected for service during the draft may sustain economic damage. Prior to the end of the draft in 1973, there was evidence employers discriminated against youth who were still liable for draft.<sup>55</sup> As a result, they were often forced to accept temporary or part-time work that did not develop meaningful skills for future employment.<sup>56</sup>

Some advocates of the draft acknowledge, and intend, that conscripts will receive deflated wages. The purpose is to reduce the cost of defense by paying artificially lowered wages for mandatory service, which is a tax in kind. Generally, a tax is levied directly by requiring payment to the Government for certain financial

transactions. However, it is also a tax when the Government requires individuals to provide labor services directly.<sup>57</sup> The amount of the tax is the reduction in the individual's self-evaluated well-being caused by his conscription.<sup>58</sup>

As a basic principle, the full economic cost of the draft is the opportunity cost for the conscript. When drafted, the conscript is deprived of the pay required to cause him to overcome his aversion to military service. In determining the value of the benefits, one needs to consider the value to the potential conscript, not the actual expense to the Government. As an example, the value of living in the barracks may be substantially less to the individual compelled to live there than the actual cost to the Government.<sup>59</sup> Even in instances where the conscripted individual earns more from military service than he would otherwise earn in the private sector, there may still be an implicit tax. This individual may have an aversion to military service that exceeds the military pay. The measure of the implicit tax is the difference between the monetary value of the aversion and the payment for services. There are two methods of measuring this implicit tax: substitution and minimum inducement. The first method involves observing how much an individual would be willing to pay to avoid service or hire a substitute.<sup>60</sup> The second approach is based upon the minimum amount the Government would need to pay a potential conscript to induce him to volunteer.<sup>61</sup>

In 1967, Oi estimated the implicit tax for the conscript force during a 1.9 year enlistment at \$333 million, or approximately \$2.3 billion in 2012 dollars.<sup>62</sup> Including the reluctant volunteers, those who enlisted to avoid being drafted, the implicit tax rises to \$5.7 billion in 2012 dollars. However, this sum does not include the lost "rents."

While a draft excises an implicit tax, it also deprives true volunteers of income they would otherwise have earned for their service.<sup>63</sup> A draft ensures that there are sufficient personnel available even if the pay is not adequate to induce enlistment. As a result, there is no incentive to adjust wages and true volunteers are paid the same depressed wages as the conscripted force.<sup>64</sup> Considering the lost rents, Oi estimated the full economic cost for a single age cohort at \$5.4 billion (\$37 billion in 2012 dollars).<sup>65</sup>

In addition to the individual cost, there is a societal cost to the draft. Contrary to the belief that drafting America's youth at little cost is a method of saving money, it causes a significant misallocation problem by placing men who have high civilian value in lower-value military jobs.<sup>66</sup> Arguably, misallocation is a desired effect resulting in the equal distribution of military responsibility across all classes of society. However, the conscription of Elvis Presley and Willie Mays during World War II demonstrate how malignant the draft can be and raises questions about the wisdom of spreading the burden randomly.

Another negative phenomenon of conscription is substitution, the use of people in lieu of capital.<sup>67</sup> When military wages are artificially deflated below the market clearing level, there is a tendency to overuse inexpensive labor rather than more expensive capital resources.<sup>68</sup> During the draft era it was common for Soldiers to mow the grass or complete unproductive tasks. With an abundance of personnel at low wages, there is a propensity to rely on them for tasks better suited for non-military personnel due to the cost savings. Instead of conducting military training, substitution encourages the use of cheap conscripted labor to perform non-mission related tasks.

According to economist William Fischel, these two inefficiencies in the draft bear an inverse relation to the size of the force; the larger the military, the smaller the effect.<sup>69</sup> This is due to reduced randomness in the selection of conscripts. In the case of full mobilization, the capital to labor ratio is less significant. More important, though, is the deadweight loss caused by a draft.

Deadweight loss is the avoidance of the taxation required to pay Soldiers. If the military force is small relative to the civilian labor force, the taxes needed for a volunteer force is modest.<sup>70</sup> When a large military force is necessary, the tax rates must be raised, resulting in greater deadweight loss. “Simply because high income tax rates take a large fraction of a civilian’s earnings is not an efficiency reason to transfer the burden of the tax – the lack of compensation – to a person who serves in the army.”<sup>71</sup>

### Injustice of the Draft

Congressman Daniel Webster argued during the War of 1812 that the draft is “incompatible with any notion of personal liberty. . . a solecism, at once the most ridiculous and abominable that ever entered the head of man.”<sup>72</sup> Nonetheless, in 1918 the U.S. Supreme Court ruled that it was within Congress’s power to conscript its citizens. The Supreme Court held that “[i]t may not be doubted that the very conception of a just government and its duty to the citizen includes the reciprocal obligation of the citizen to render military service in case of need, and the right to compel it.”<sup>73</sup>

Author Ayn Rand harshly criticized the use of conscription as the act of ultimate statism. The draft “negates man’s fundamental right – the right to life – and establishes the fundamental principle of statism: that a man’s life belongs to the state, and the state may claim it by compelling him to sacrifice it in battle.”<sup>74</sup> If the state has the right to compel military service, it must also have the right to demand the life of its citizens in



exchange for the benefits of the state. Rand asserts that this position is contradictory as the state's main function is to protect the life of its citizens. Therefore, it cannot demand that life in exchange for the protection it provides.<sup>75</sup>

Conscription rests on the principle that citizens owe a duty to the state. The Government claims this duty extends to fighting on its behalf, and possibly in doing so, dying for the state.<sup>76</sup> This raises the question of respective duties. Conscription in the United States has always relied upon young men, excluding older men and all women. Sociologist Michael Walzer suggests that wars should be fought by old men as they might be less bloody and less frequent.<sup>77</sup> While this may be true, a better reason for requiring older men to fight is that it would be more just. Who has received greater benefits from society, the young or the old? If the burden of fighting was proportionate to the societal benefits received, then there is no justification for excluding men over the age of 26 from conscription.

The same can be said about the plenary exclusion of women from the draft. Inarguably, women receive as many benefits as men in modern society. If the liability for conscription is derived from duties of citizenship, then there is no justification for relieving women of these duties.

An often used trope is that military service builds good citizens. This, of course, assumes that it is possible to *make* good men and that it may be achieved through coercive measures. This is a position held by “many reformers, most revolutionaries and all busybodies.”<sup>78</sup> Military theorist B. H. Liddell Hart cogently observed that this theory has persisted for generations despite evidence to the contrary. “It is closely related – cousin at least – to the dominant conception of the Nazi and Fascist movements.”<sup>79</sup> This

corrupt ideology leads to the belief that men can be compelled to be good citizens, correlating coerced behavior to character. While actions may be compelled – or prohibited – the subject of coercion does not need to believe in the cause.

The fundamental question is whether the American society is built upon the idea of individual liberty. If so, the peacetime draft is inconsistent with those ideals. It is inherent in a free society that individuals will be given control over their lives and how they conduct those lives, to the extent that they do not infringe upon others in society. While individual freedoms are not limitless, the burden is upon the Government to show that its actions are necessary to prevent harm to others in society. The alternate view is that individual rights are subservient to the Government interests and group choice is a substitute for individual choice.<sup>80</sup>

Many frame the draft in the context of equality. However, the true issue is individual liberty. An underpinning of the democratic philosophy is that the state serves the people. The idea that citizens owe their lives and their labor to the state runs counter to this basic tenant, creating an irreconcilable tension between liberties and civic duties. “The American system of freedom, insofar as it operates in employment, is one of persuading or inducing persons to engage in work rather than compelling them to do so.”<sup>81</sup> Allowing the Government to take young men from their homes to serve in the military erodes the principles of freedom which support the framework of American society and should be used prudentially.

The coercive nature of the draft is disguised in the language of patriotism, duties and obligations.<sup>82</sup> However, this does not detract from the coercive nature of the act. At best, it produces grudging and hostile acquiescence.<sup>83</sup> B. H. Liddell Hart argues that a

state unable to obtain service voluntarily from its citizens may not be worthy of survival.<sup>84</sup> The legitimacy of the state is questionable if the people only serve when coerced by the power of the state.

The realist would argue that the ends justify the means, and the draft achieves an important end. Many advocates of the draft cite the cost benefit of a conscripted force. On February 2, 1971, Roger T. Kelley, the Assistant Secretary of Defense for Manpower and Reserve Affairs, testified before the Senate Armed Services Committee, that “the right of free choice, as applied to one’s work or career, is important.”<sup>85</sup> Nonetheless, he expressed reservations whether it represented the best deal for the American taxpayer. Fiscal considerations, rather than manpower issues, have often been raised when discussing the draft. The preceding section amply dissects the unfairness of making Soldiers bear the burden of society’s fiscal irresponsibility, but the unjust application of compulsory service bears more scrutiny.

U.S. Representative Thomas Curtis denounced paying Soldiers less than the civilian equivalent as being a national shame.<sup>86</sup> The realist, though, would consider paltry wages as a necessary means to achieve a vital end. Arguably, a fully manned but affordable military is an important societal need. However, it would be unjust to apply this reasoning to only the military. There are numerous ways the Government could save money if it instated a draft system. This is not a novel argument, but it is worth comparing military conscription to another occupation based upon current fiscal trends.

The cost of a postsecondary education has increased by 1,120 percent since 1978, four times faster than the increase in the consumer price index.<sup>87</sup> This fact suggests that a civilian draft should be implemented to conscript teachers. Compulsory

service at wages similar to the Vietnam era conscript could potentially halt the runaway cost of a college education. Unfortunately, such efforts would likely be fruitless. The cost of avoidance would be very high for the nation. Drafting teachers would have a chilling effect. Students would choose other professions not subject to the draft. Most likely, there would be a shortage of teachers and costs would rise even more quickly.

It is not suggested that drafting teachers is a good idea, just the opposite. The fiscal argument for a military draft may be extended to academia. However, why stop there? If the goal is to reduce costs to the Government then a draft could be used to fill virtually all government positions. It is questionable whether a vast conscription would have the desired effect, but equally important is the unjustness of implementing a military draft targeting young men.

The arguments for cost savings and greater equality through the draft ignore those youth who wish to volunteer for military service. Absent from most discussions is the success of the all-volunteer force in recruiting replacements. Volunteers have continued to enlist in sufficient numbers for the last four decades. Rather than facing shortages in manpower, the services have excess personnel, requiring drastic cuts over the next several years. The active Army will shrink by almost 61,000 Soldiers. About 40 percent of those reductions will occur through involuntary separations.<sup>88</sup> As it is, there are too many volunteers for the positions available. To make room for draftees, the services would need to significantly reduce their recruiting. In 2012, the Army had a goal of only 58,000 new Soldiers.<sup>89</sup> Approximately 4 million youth turn 18 years-old every year.<sup>90</sup> This means that drafting just 1.5 percent of the eligible 18 year-olds would meet the entire replacement requirement leaving no room for volunteers. A draft would

compel the service of those who do not wish to do so while precluding volunteers. The dystopian military culture resulting from this perverse manning system would be detrimental to military readiness. As General Robert Scales Jr., former Commandant of the U.S. Army War College, put it, "Drafting teenagers and committing them to combat within only a year of enlistment will create an Army of amateurs."<sup>91</sup>

### Conclusion

B. H. Liddell Hart asked why we don't learn from history. The better question is why we learn the wrong lessons. The U.S. experiment with the draft ended in 1973 because it was seen as an inequitable and unfair system of procuring military labor. The perception was that poor minorities were being sent off to war while the privileged elites were able to avoid service. Four decades later, proponents of the draft have turned the argument against the draft on its head.

Maybe it is a romanticized memory of the draft that has led to the current advocacy of conscription. Counter to the protestations heard during the Vietnam War, those favoring the draft now argue that a draft is fairer to minorities. They also assert that a draft would more equitably distribute the burden of war across all classes. Ironically, advocates discard the cloak of fairness when it comes to compensation for military service. Rather than fairly pay conscripts for their labor, proponents of the draft wish to prevent tax increases for those not burdened with the duty of national defense by paying draftees wages that not only fail to meet the market rate but are below the subsistence level. Where is the justice in depriving young men of fair earnings for their service and the possible sacrifice of their lives?

A peacetime draft is antithetical to the ideals of a free society and the notion of compelling individuals to provide services against their will is inconsistent with U.S.

national values. The all-volunteer system has been able to procure sufficient personnel. Absent a national emergency requiring more servicemembers than can be voluntarily recruited at fair market rates, compulsory service cannot be justified. It is inherently unfair to take away an individual's freedom of choice due to expediency or economy.

"We ought to realize that it is easier to adopt the compulsory principle of national life than to shake it off."<sup>92</sup> Accepting the draft as a means to balance the budget or socially engineer responsibilities in society may support noble ends, but the means are insufferable. Once society decides that compelling individual labor is warranted, the barriers protecting other rights will be lowered to the detriment of all people. As Hart forewarned of the peacetime draft: "We ought to think carefully, and to think ahead, before taking a decisive step towards totalitarianism. Or are we so accustomed to our chains that we are no longer conscious of them?"

One of the greatest virtues of the U.S. is its protection of individual freedom. Absent a national emergency dictating a full mobilization, the all-volunteer force is preferred over a conscripted one. Individual choice should dictate who serves in the Armed Forces rather than a politically determined formula for "equitable" representation; fairness requires it.

## Endnotes

<sup>1</sup> B. H. Liddell Hart, "Why We Don't Learn from History," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 40.

<sup>2</sup> Bernard D. Rostker, *America Goes to War: Managing the Force During Times of Stress and Uncertainty*, (Santa Monica, CA: RAND National Defense Research Institute, 2007), xi.

<sup>3</sup> Andrew J. Bacevich, "Who Will Serve," *The Wilson Quarterly* 22, no. 3 (Summer 1998): 83.

<sup>4</sup> *Ibid.*, 84.

<sup>5</sup> Ibid., 86.

<sup>6</sup> Ellen Torelle, *The Political Philosophy of Robert M. LaFollette* (Madison, WI: Blued Printing Company, 1920), 216.

<sup>7</sup> Ibid.

<sup>8</sup> Rostker, *America Goes to War*, xiv.

<sup>9</sup> Louis Caldera, "Should the Draft be Reinstated?" December 29, 2003, <http://www.cnn.com/2003/ALLPOLITICS/12/29/timep.draft.tm/> (accessed October 30, 2012).

<sup>10</sup> Josh Rogin, "McChrystal: Time to Bring Back the Draft," July 3, 2012, [http://thecable.foreignpolicy.com/posts/2012/07/03/mcchrystal\\_time\\_to\\_bring\\_back\\_the\\_draft](http://thecable.foreignpolicy.com/posts/2012/07/03/mcchrystal_time_to_bring_back_the_draft) (accessed October 26, 2012).

<sup>11</sup> Charles Rangel, "Bring Back the Draft," *The New York Times*, December 31, 2002.

<sup>12</sup> Thomas E. Ricks, "Let's Draft Our Kids," *The New York Times*, July 9, 2012.

<sup>13</sup> Charles Moskos and Lawrence Korb, "Time to Bring Back the Draft," *The American Enterprise* 12, no. 8 (December 2001): 16.

<sup>14</sup> M. C. Devilbliss, "Women and the Draft," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 89.

<sup>15</sup> *Rostker v. Goldberg*, 453 U.S. 57, 59 (1981).

<sup>16</sup> Ibid., 71.

<sup>17</sup> Ibid., 80.

<sup>18</sup> Ibid., 79.

<sup>19</sup> Ibid., 77.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid., 63.

<sup>22</sup> U.S. Constitution, Amend. XIV, provides that no citizen shall be deprived of the equal protection of the laws. However, treatment of dissimilarly situated persons in dissimilar manner by the Government does not violate the equal protection clause. *Keevan v. Smith*, 100 F.3d 644 (8<sup>th</sup> Cir. November 18, 1996).

<sup>23</sup> *Rostker v. Goldberg*, 82.

<sup>24</sup> Ibid., 83.

<sup>25</sup> Ibid., 96.

<sup>26</sup> Ibid., 97.

<sup>27</sup> Ibid., 99.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid., 103.

<sup>31</sup> *Report to Congress on the Review of Laws, Policies and Regulations Restricting the Service of Female Members in the U.S. Armed Forces* at 2.

<sup>32</sup> Andrew Tilghman, "Panel: Let Women Serve in Combat Roles," December 7, 2010, <http://www.armytimes.com/news/2010/12/military-women-combat-120710w/> (accessed November 17, 2012).

<sup>33</sup> Erin McClam, "Valor Knows No Gender: Pentagon Lifts Ban on Women in Combat," January 24, 2013, <http://usnews.nbcnews.com/news/2013/01/24/16681072-valor-knows-no-gender-pentagon-lifts-ban-on-women-in-combat?lite> (accessed January 26, 2013).

<sup>34</sup> *Rostker v. Goldberg*, 103.

<sup>35</sup> The services have until January 2016 to complete implementation of the policy change or submit waivers to exclude women from certain positions. Despite the new policy, women may continue to be barred from some positions.

<sup>36</sup> Aline O. Quester and Curtis L. Gilroy, *America's Military: A Coat of Many Colors* (Alexandria, VA: CNA Analysis & Solutions, July 2001), 4.

<sup>37</sup> Amy Lutz, "Who Joins the Military?: A look at Race, Class, and Immigration Status," *Journal of Political and Military Sociology* 36, no. 2 (January 2008): 173.

<sup>38</sup> Quester and Curtis, *America's Military*, 5.

<sup>39</sup> Defense Casualty Analysis System, at <https://www.dmdc.osd.mil/dcas/pages/casualties.xhtml> (accessed October 23, 2012).

<sup>40</sup> Ibid.

<sup>41</sup> Segal, "America's Military Population," 22.

<sup>42</sup> Ibid.

<sup>43</sup> Lutz, "Who Joins the Military," 167.

<sup>44</sup> Walter Y. Oi, "The Economic Cost of the Draft," *The American Economic Review* 57, no. 2 (May, 1967): 47.

<sup>45</sup> Ibid., 51.



<sup>46</sup> Ryan C. Amacher, James C. Miller III, Mark V. Pauly, Robert D. Tollison and Thomas D. Willet, "The Economics of the Military Draft," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 370.

<sup>47</sup> Paolo Buonanno, "Long-term Effects of Conscription: Lessons from the UK," [www.sole-jole.org/820.pdf](http://www.sole-jole.org/820.pdf) (accessed November 17, 2012).

<sup>48</sup> Ibid., 5.

<sup>49</sup> Joshua D. Angrist, "Lifetime Earnings and the Vietnam Era Draft Lottery: Evidence from Social Security Administrative Records," *The American Economic Review* 80, no. 3 (Jun., 1990), 330.

<sup>50</sup> Ibid., 326.

<sup>51</sup> Zvi Griliches and William M. Mason, "Education, Income, and Ability," *The Journal of Political Economy* 80, no. 3, (May - Jun., 1972), S80.

<sup>52</sup> Amacher, et al., "The Economics of the Military Draft," 362.

<sup>53</sup> Andrew Tilghman, "Employer Bias," *Army Times*, December 10, 2012.

<sup>54</sup> Ibid.

<sup>55</sup> Oi, "The Economic Cost of the Draft," 60.

<sup>56</sup> Ibid.

<sup>57</sup> Amacher, et al., "The Economics of the Military Draft," 349.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid., 355.

<sup>60</sup> Ibid., 354.

<sup>61</sup> Ibid.

<sup>62</sup> Oi, "The Economic Cost of the Draft," 58.

<sup>63</sup> Ibid., 59.

<sup>64</sup> Amacher, et al., "The Economics of the Military Draft," 356.

<sup>65</sup> Ibid.

<sup>66</sup> William A. Fischell, "The Political Economy of Just Compensation: Lessons from the Military Draft for the Takings Issue," *Harvard Journal of Law and Public Policy* 20, no. 1 (Fall 1996): 32.

<sup>67</sup> Ibid., 33.

<sup>68</sup> Amacher, et al., "The Economics of the Military Draft," 368.

<sup>69</sup> Fischell, "The Political Economy of Just Compensation," 34.

<sup>70</sup> Ibid., 35.

<sup>71</sup> Ibid.

<sup>72</sup> Richard Gillam, "The Peacetime Draft: Voluntarism to Coercion," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 101.

<sup>73</sup> *Arver v. United States*, 245 U.S. 366, 377 (1918).

<sup>74</sup> Ayn Rand, "The Wreckage of the Consensus," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 172.

<sup>75</sup> Ibid.

<sup>76</sup> Michael Walzer, "Political Alienation and Military Service," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 153.

<sup>77</sup> Ibid., 159.

<sup>78</sup> Hart, "Why We Don't Learn from History," 42.

<sup>79</sup> Ibid.

<sup>80</sup> Amacher, et al., "The Economics of the Military Draft," 350.

<sup>81</sup> John M. Swomley, "Why the Draft Should Go," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 582.

<sup>82</sup> Kenneth E. Boulding, "The Impact of the Draft on the Legitimacy of the National State," in *The Draft: A Handbook of facts and Alternatives*, ed. Sol Tax (Chicago, IL : University of Chicago Press, 1967), 195.

<sup>83</sup> Ibid.

<sup>84</sup> Hart, "Why We Don't Learn from History," 41.

<sup>85</sup> Roger T. Kelley, "All-Volunteer Force," (Washington, DC: U.S. Army Command Information Unit, February 2, 1971), 2.

<sup>86</sup> Thomas B. Curtis, "The Draft: Unjust and Unnecessary," in *The Military Draft: Selected Readings on Conscription*, ed. Martin Anderson (Hoover Institution Press, 1982), 590.

<sup>87</sup> Michelle Jamrisko and Ilan Kolet, "Cost of College Degree in U.S. Soars 12 Fold," August 15, 2012, <http://www.bloomberg.com/news/2012-08-15/cost-of-college-degree-in-u-s-soars-12-fold-chart-of-the-day.html> (accessed February 9, 2013).

<sup>88</sup> Jim Tice, "Cutting 25,000 Soldiers," *Army Times*, October 29, 2012.

<sup>89</sup> U.S. Army Recruiting Command Goals, <http://www.usarec.army.mil/hq/apa/goals.htm> (accessed December 13, 2012).

<sup>90</sup> U.S. Bureau of Census, *Age and Sex Composition: 2010* (Washington, DC: U.S. Census Bureau, 2011), 3.

<sup>91</sup> William N. Grigg, "Reviving the Draft," *The New American* 20, no. 2 (January 26, 2004): 21.

<sup>92</sup> Hart, "Why We Don't Learn from History," 41.

